

CASE UNSEALED PER ORDER OF COURT

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2012 JUN 21 PM 4:52

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY Van DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

June 2011 Grand Jury

10	UNITED STATES OF AMERICA,	)	Case No. <u>12 CR 2497 AJB</u>
11)	
11	Plaintiff,	)	<u>I N D I C T M E N T</u>
12)	
12	v.	)	Title 26, U.S.C., Sec. 7212(a) -
13		)	Corrupt Interference with
13		)	Administration of the Internal
14	JAMES FRANCIS MURPHY (1),	)	Revenue Laws; Title 18, U.S.C.,
14	DENINE CHRISTINE MURPHY (2),	)	Sec. 514 - Fictitious Financial
15		)	Obligations; Title 18, U.S.C.,
15	Defendants.	)	Sec. 287 - False Claims; Title
16		)	18, U.S.C., Sec. 2 - Aiding and
16		)	Abetting

The Grand Jury charges:

ALLEGATIONS COMMON TO ALL COUNTS

1. At all times material to this Indictment, defendants JAMES FRANCIS MURPHY and DENINE CHRISTINE MURPHY were husband and wife.

2. At all times material to this Indictment, defendant JAMES FRANCIS MURPHY was an osteopathic physician licensed to practice in California and Nebraska.

3. At all times material to this Indictment, defendant JAMES FRANCIS MURPHY conducted a for-profit medical practice in Encinitas, California, and in Omaha, Nebraska.

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4. At all times material to this Indictment, the Internal Revenue Service (IRS) was the agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States.

Count 1

CORRUPT INTERFERENCE WITH ADMINISTRATION OF THE INTERNAL REVENUE LAWS
[26 U.S.C. § 7212(a)]

Beginning on a date unknown to the grand jury, but no later than September 2000, and continuing to at least June 21, 2012, in the Southern District of California and elsewhere, defendants JAMES FRANCIS MURPHY and DENISE CHRISTINE MURPHY did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws by:

(a) using Cornerstone Progressive Health (CPH), a sham trust, that is a trust with no economic purpose other than unlawfully evading the payment of federal income taxes, to hide the income earned from the practice of medicine by defendant JAMES FRANCIS MURPHY from the Internal Revenue Service (IRS);

(b) filing with the IRS false U.S. Income Tax Returns for Estates and Trusts, Forms 1041, for calendar years 2003 through 2005, on behalf of CPH;

(c) filing with the IRS a fraudulent U.S. Individual Income Tax Return, Form 1040, for calendar year 2003, which falsely reported an adjusted gross income of -\$8,021;

(d) presenting to the IRS fictitious "Bonded Promissory Notes" in payment of their federal income taxes due for calendar years 2003, 2004, and 2005;

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1 (e) filing with the IRS false U.S. Individual Income Tax Returns,
2 Forms 1040, for calendar years 2005, 2006, and 2007 that falsely claimed
3 tax refunds of \$461,940.20 (2005), \$460,303.74 (2006), and \$314,102.90
4 (2007), to which defendants JAMES FRANCIS MURPHY and DENINE CHRISTINE
5 MURPHY were not entitled;

6 (f) presenting to the IRS fictitious financial instruments,
7 titled "Private Discharging and Indemnity Bonds," in payment of their
8 federal income taxes due for calendar years 2003, 2004, 2005, and
9 2006;

10 (g) presenting to the IRS fictitious financial instruments,
11 titled "money orders," in payment of their federal income taxes due;

12 (h) presenting to the IRS numerous Notices Concerning Fiduciary
13 Relationship, IRS Forms 56, falsely identifying the Secretary of the
14 Treasury as the fiduciary for defendants JAMES FRANCIS MURPHY and
15 DENINE CHRISTINE MURPHY, and bearing the forged signature of the
16 Secretary of the Treasury; and

17 (i) sending false, written accusations of criminal conduct to an
18 employee of the IRS in order to intimidate the employee from
19 performing his official duties.

20 All in violation of Title 26, United States Code, Section 7212(a).

21 Count 2

22 FICTITIOUS FINANCIAL OBLIGATIONS
23 [18 U.S.C. § 514]

24 On or about February 14, 2008, in the Southern District of
25 California and elsewhere, defendant JAMES FRANCIS MURPHY did, with the
26 intent to defraud, pass, utter, present, and offer, and attempt to
27 pass, utter, present, and offer a false and fictitious document
28 appearing, representing and purporting to be an actual security or

1 financial instrument issued under the authority of the United States
2 by mailing and causing to be mailed to the Internal Revenue Service
3 a "Bonded Promissory Note" in the face amount of \$763,622 as payment
4 for taxes due for calendar year 2003 on behalf of Cornerstone
5 Progressive Health.

6 All in violation of Title 18, United States Code, Sections 514 and 2.

7 Count 3

8 FICTITIOUS FINANCIAL OBLIGATIONS
9 [18 U.S.C. § 514]

10 On or about February 14, 2008, in the Southern District of
11 California and elsewhere, defendant JAMES FRANCIS MURPHY did, with the
12 intent to defraud, pass, utter, present, and offer, and attempt to
13 pass, utter, present, and offer a false and fictitious document
14 appearing, representing and purporting to be an actual security or
15 financial instrument issued under the authority of the United States
16 by mailing and causing to be mailed to the Internal Revenue Service
17 a "Bonded Promissory Note" in the face amount of \$785,482 as payment
18 for taxes due for calendar year 2003 on behalf of defendants JAMES
19 FRANCIS MURPHY and DENINE CHRISTINE MURPHY.

20 All in violation of Title 18, United States Code, Sections 514 and 2.

21 Count 4

22 FICTITIOUS FINANCIAL OBLIGATIONS
23 [18 U.S.C. § 514]

24 On or about February 14, 2008, in the Southern District of
25 California and elsewhere, defendant JAMES FRANCIS MURPHY did, with the
26 intent to defraud, pass, utter, present, and offer, and attempt to
27 pass, utter, present, and offer a false and fictitious document
28 appearing, representing and purporting to be an actual security or

1 financial instrument issued under the authority of the United States
2 by mailing and causing to be mailed to the Internal Revenue Service
3 a "Bonded Promissory Note" in the face amount of \$948,714 as payment
4 for taxes due for calendar year 2004 on behalf of defendants JAMES
5 FRANCIS MURPHY and DENINE CHRISTINE MURPHY.

6 All in violation of Title 18, United States Code, Sections 514 and 2.

7 Count 5

8 FICTITIOUS FINANCIAL OBLIGATIONS
9 [18 U.S.C. § 514]

10 On or about February 14, 2008, in the Southern District of
11 California and elsewhere, defendant JAMES FRANCIS MURPHY did, with the
12 intent to defraud, pass, utter, present, and offer, and attempt to
13 pass, utter, present, and offer a false and fictitious document
14 appearing, representing and purporting to be an actual security or
15 financial instrument issued under the authority of the United States
16 by mailing and causing to be mailed to the Internal Revenue Service
17 a "Bonded Promissory Note" in the face amount of \$937,358 as payment
18 for taxes due for calendar year 2005 on behalf of defendants JAMES
19 FRANCIS MURPHY and DENINE CHRISTINE MURPHY.

20 All in violation of Title 18, United States Code, Sections 514 and 2.

21 Count 6

22 FALSE CLAIMS
23 [18 U.S.C. § 287]

24 On or about April 16, 2008, in the Southern District of
25 California and elsewhere, defendants JAMES FRANCIS MURPHY and DENINE
26 CHRISTINE MURPHY, residents of Encinitas, California, made and
27 presented to the United States a claim for payment of a fraudulent tax
28 refund in the amount of \$461,940.20, with knowledge that such claim

1 was false, fictitious, and fraudulent. The defendants made the false
2 claim by submitting a U.S. Individual Income Tax Return, Form 1040,
3 for calendar year 2005, based on fictitious Forms 1099-OID, Original
4 Issue Discount, to the United States Treasury Department through the
5 Internal Revenue Service.

6 All in violation of Title 18, United States Code, Sections 287 and 2.

7 Count 7

8 FALSE CLAIMS
9 [18 U.S.C. § 287]

10 On or about April 16, 2008, in the Southern District of
11 California and elsewhere, defendants JAMES FRANCIS MURPHY and DENINE
12 CHRISTINE MURPHY, residents of Encinitas, California, made and
13 presented to the United States a claim for payment of a fraudulent tax
14 refund in the amount of \$460,303.74, with knowledge that such claim
15 was false, fictitious, and fraudulent. The defendants made the false
16 claim by submitting a U.S. Individual Income Tax Return, Form 1040,
17 for calendar year 2006, based on fictitious Forms 1099-OID, Original
18 Issue Discount, to the United States Treasury Department through the
19 Internal Revenue Service.

20 All in violation of Title 18, United States Code, Sections 287 and 2.

21 Count 8

22 FALSE CLAIMS
23 [18 U.S.C. § 287]

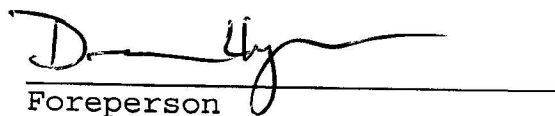
24 On or about April 16, 2008, in the Southern District of
25 California and elsewhere, defendants JAMES FRANCIS MURPHY and DENINE
26 CHRISTINE MURPHY, residents of Encinitas, California, made and
27 presented to the United States a claim for payment of a fraudulent tax
28 refund in the amount of \$341,102.90, with knowledge that such claim

1 was false, fictitious, and fraudulent. The defendants made the false
2 claim by submitting a U.S. Individual Income Tax Return, Form 1040,
3 for calendar year 2007, based on fictitious Forms 1099-OID, Original
4 Issue Discount, to the United States Treasury Department through the
5 Internal Revenue Service.

6 All in violation of Title 18, United States Code, Sections 287 and 2.

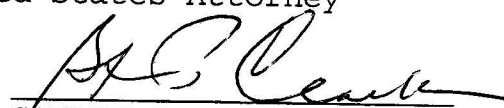
7 DATED: June 21, 2012.

8 A TRUE BILL:

9 
10 Foreperson

11 LAURA E. DUFFY
12 United States Attorney

13 By:


14 STEPHEN P. CLARK
15 Assistant U.S. Attorney
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